IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SECOND DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 26996 of 1999

Between:

M.Ram Mohan Reddy S/o Sri.Raji Reddy
Bagh Lingam Palli, Hyderabad.

..... PETITIONER

AND

1. The Government of Andhra Pradesh represented by its Secretary to Govt., Revenue (Assignments-II) Dept
   A.P Secretariat, Hyderabad.
2. The Government of Andhra Pradesh represented by its Principal Secretary, Environment, Forests, Science and Technology
   (For.1)Dept, A.P.Secretariat Hyderabad.
3. The Principal Chief Conservator of Forests, Andhra Pradesh, Saifabad, Hyderabad.
4. The Divisional Forest Officer, Nellore.
5. Vishvodaya Society, represented by its President, Kavali,
   Nellore Dist.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the

circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ, order or direction more particularly one in the nature of a writ of mandamus in issuing G.O.Ms.No.139, Revenue (Assignments II) Department dt 19-2-99 of the first respondent and the consequential Govt Memo No. 4644/For.I/99-7 dt 4-12-99 of the second respondent and set aside the same as arbitrary and illegal and violative of Section 2 of Forest Conservation Act and section 23 of A.P Forest Act,1967

Counsel for the Petitioner:MR.S.SATYAM REDDY

Counsel for the Respondent Nos.1 to 4: The Advocate General.

Counsel for the Respondent No.5: J.Venkateswar Reddy

The Court made the following :

ORAL ORDER: (per the Hon'ble the Chief Justice)

This petition has been filed as public interest litigation by one M.Ram Mohan Reddy, Advocate, residing at Hyderabad. As on the date of filing of the petition, the petitioner was aged 35 years. The petitioner questioned the legality and validity of G.O.Ms.No.139 Revenue (Assignments.II) Department dated 19-2-1999 and consequential memo dated 4th December, 1999 alleging that Ac.30-00 of reserve forest land had been assigned to the fifth respondent, which is not permissible in law. He made reference to various provisions of the Forest Act and submitted that assignment in favour of the fifth respondent is to bestow undue favour. He also made reference to G.O.755 dated 1-4-1970 wherein the Government had decided that an extent of Ac.30.00 of land in Kavali Extension Reserve Forest in Nellore District be dereserved for assignment to Jawahar Bharathi College at Kavali subject to certain conditions and that it was not given effect to. According to the petitioner, the said G.O. was only an administrative approval giving consent for dereservation of reserve forest subject to certain conditions and when G.O.755 had not been given effect to, G.O.139 was issued to confer benefit on the fifth respondent contrary to the provisions of the Forest Conservation Act.

Counter affidavits have been filed separately by respondents 1 to 4 and by respondent No.5.

Respondents 1 to 4 in the counter affidavit alleged that the petition is more in the nature of publicity interest litigation rather than public interest litigation and

deserves dismissal in limine. It is stated that the President of the fifth respondent made representation in November, 1969 requesting assignment of land in Kavali extension, a reserved forest, which was close to Kavali Town to enable him to run an agricultural college. The Government after consideration of the representation decided that an extent of Ac.30-00 of land in Kavali extension reserve forest be dereserved for assignment to Jawahar Bharathi College at Kavali subject to the condition that the land shall revert to the Forest Department if the college failed to develop and use the same as an agricultural farm within two years. Resultantly, G.O.755 dated 21-4-1970 was issued asking the Conservator of Forests to submit necessary proposals for denotifying the area. The land was handedover to the fifth respondent on 30th October, 1970. By subsequent memo dated 13th April, 1977, the fifth respondent was permitted to hold the said land for a further period of five years subject to the condition it should develop the land and use it for an agricultural farm, failing which, the land shall revert to the Forest Department. Subsequently, the Principal Chief Conservator of Forests issued instructions dated 12th April, 1988 for resumption of land in question with immediate effect and the fifth respondent was asked to handover possession. This action was challenged by the fifth respondent in W.P.No.7356 of 1988 before this court. The writ petition was disposed of on 20th September, 1996 holding:

> "The respondents have lost sight of the fact that the said Act, has come into force from 25-10-1980 while the assignment in this case was made by the Government earmarking the area out of the then reserve forest and initially a period of two years was stipulated for converting the land into agricultural farm and as it could not be made possible by the petitioner, extension was sought for and extension of five years was granted in memo No.2626/For.I/75-16 dated 13-4-1977. It is not a ground pleaded by the respondents that the petitioner has not converted the land into agricultural farm even within the said extended five years' period. The reason is that the Act of 1980 mentioned above does not provide for assigning the forest land for agricultural purpose but the said Act effective from 25-10-1980 and for the reason that the assignment in the instant case was made much before that, the impugned order is untenable and is set aside."

The fifth respondent thereafter addressed letter on 4-7-1998 for permission to establish engineering college in the said land and permission was accorded to establish engineering college in Ac.30-00 of land which was already assigned in the year 1970. Thus, the stand of respondents 1 to 4 was that the land stood assigned in

the year 1970 and what was done by subsequent G.O.139 was to permit the fifth respondent to establish engineering college in the land.

Respondent No.5 in the affidavit in reply has alleged that adjoining its property and adjoining Kavali town, there was land belonging to the Forest Department without any trees but covered by bushes. Ac.30-00 of land was allotted to it for establishment of farms etc., and the assignment was made in 1970 subject to certain conditions. The conditions were complied with. When respondent No.4 was intending to resume the said land, the fifth respondent had filed writ petition and assignment in its favour was upheld. Now the present petition has been filed by the petitioner without ascertaining full facts alleging illegality. It is stated that when assignment took place in the year 1970, a forest, without any trees was denotified. There was no violation of any laws, rules and regulations.

Heard the learned counsel for the parties.

We have been informed across the Bar that engineering college has since been established. The proceedings placed on record would show that the land in question was not assigned to any individual but to an institution for educational purpose. No alleged illegality has been pointed out in the writ petition. We do not find any illegality or irregularity in the action of respondents 1 to 4. We have to examine the conduct of respondents 1 to 4 at the relevant point of time when the assignment was made. Assignment of land was made bona fide for educational purpose, which was not covered by any trees but was covered by bushes. Thus, the case does not require any interference on judicial side.

The writ petition is dismissed.

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DEVINDER GUPTA, CJ

2-8-2004

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C.V.RAMULU, J

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To

1. The Secretary to Government, Government of Andhra Pradesh, Revenue (Assignments-II) Dept, A.P Secretariat, Hyderabad.
2. The Principal Secretary, Government of Andhra Pradesh, Environment, Forests, Science and Technology (For.1) Dept, A.P.Secretariat, Hyderabad.
3. The Principal Chief Conservator of Forests, Andhra Pradesh, Saifabad, Hyderabad..
4. The Divisional Forest Officer, Nellore.
5. 2 CCs to the Advocate General, High Court Buildings, Hyderabad, (OUT).
6. 2 CD copies.